

disclaimer such that the claimed nucleic acid molecule now has 95% nucleotide sequence identity with SEQ ID NO: 1 or hybridizes to SEQ ID NO: 1 under the recited conditions while still retaining p70 $\beta$  S6 kinase activity.

Applicants acknowledge the Examiner's statement in the previous Office Action that the subject matter in claim 79 would be allowable if written in independent form. Without acquiescing to the merits of the rejection, Applicants have incorporated this limitation (*e.g.*, 95% nucleotide sequence identity) into claim 56. In addition, Applicants have incorporated language into claim 56 which is directed to nucleic acids which hybridize to SEQ ID NO: 1 under the recited conditions in response to the Examiner's indication that such subject matter would also be allowable as set forth in the telephone discussion with Applicants' attorney on June 17, 2004. In view of the claim amendments and the above remarks, Applicants submit that the rejection is moot and request withdrawal of the rejection.

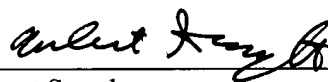
#### **Conclusion**

Applicants respectfully request reconsideration of the subject application in view of the amended claims and the above remarks. It is respectfully submitted that this application is now in condition for allowance. Should the Examiner believe it to be useful, another interview with the Examiner is respectfully requested in order to discuss the foregoing claims.

**Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: **June 22, 2004**  
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Respectfully submitted  
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